United Nations Secretary-General's Special Representative on business and human rights

SRSG Response to articles by Jeff Ballinger and Roy Adams

Thank you for the opportunity to respond to the recently published issue of *International Union Rights*, in which several articles address my United Nations mandate on business and human rights. I also thank the magazine itself for reprinting an interview with me at the International Labor Organization this past June, where I had excellent discussions on the relationship between the mandate and the work of the ILO.

Many points are raised in these articles regarding the "Protect, Respect and Remedy" framework that I proposed to the UN Human Rights Council in 2008, and which the Council welcomed unanimously. It is important to note that this marked the first time the Council or its predecessor body had ever taken a substantive policy position on the issue of business and human rights. The Council also extended my mandate to 2011 and asked me to further "operationalize" (their word, not mine) the framework. I am just now beginning a series of consultations with all stakeholder groups that will inform my drafting of "Guiding Principles" on the framework's implementation.

Lack of space and time do not permit detailed comments on each article. But I do want to respond to two—those by Jeff Ballinger and Roy Adams, both of which, Daniel Blackburn's editorial states, are "thoroughly critical."

Not only is Ballinger thoroughly critical, he is also thoroughly ill-informed. Before firing off his missive, it would have been immensely helpful for him to spend just a few minutes on the Business and Human Rights Resource Centre's valuable website where all my work is posted (http://www.business-humanrights.org/SpecialRepPortal/Home).

Ballinger claims that in 2008 I "laid out a hierarchy of problematic industries," and that I ignored sweatshops by not putting them at the top of the list. In fact did no such thing. There being no authoritative repository of systematic information regarding corporate-related human rights abuses, when I first started the mandate in 2005 I reviewed the 60 most recent NGO reports alleging such abuses, to see what NGOs thought were the most pressing issues warranting full investigative reports. I also wanted to see the broader country and regional contexts in which these took place. The "hierarchy" of sectors was in the NGO reporting, not of my making.

Ballinger goes on to say that "Ruggie's next gambit was to convene representatives from 19 corporate law firms." Actually, that wasn't my next "gambit" at all. By the time I held

a meeting with corporate law firms I had already convened more than two dozen other multi-stakeholder and expert consultations on every continent, many of which involved at-risk communities, local and transnational NGOs, workers representatives and other social actors. All are listed on the BHRRC website.

Indeed, out of more than forty consultations to date, exactly two were with corporate law firms; a third addressed the subject of corporate law but also involved experts from NGOs and academic institutions. Why corporate law firms? Because more than 20 such firms from around the world conducted pro bono research for the mandate, surveying more than 40 jurisdictions, asking the question of how corporate law and securities regulation facilitate or impede the corporate recognition of human rights. This produced the most comprehensive comparative study ever compiled on this subject. It seemed only sensible to bring the law firms together to discuss the findings. Possible policy and legal reforms were then discussed at the broader multi-stakeholder meeting.

With another click or two on the BHRRC website, Ballinger also would have discovered that I have welcomed contributions from trade unions to various aspects of my mandate, including the issue of precarious work, which I highlighted in an address to the ILO in June. As Kirsty Drew knows well and notes in her article, I have engaged with TUAC, the Trade Union Advisory Council to the OECD, in the context of the update of the OECD Guidelines on Multinational Enterprises. TUAC has also been collaborating with me in improving the database of cases contained in the information-sharing online resource I established for non-judicial grievance mechanisms dealing with disputes between business and society—(www.baseswiki.org)–accessible in multiple languages.

Finally, engagement with affected stakeholders and their legitimate representatives, including trade unions, has been fundamental to the five pilot projects in different sectors and regions that are testing a set of effectiveness principles I developed for company-related grievance mechanism. I have consistently made it clear that such mechanisms should not undermine trade union representation and collective bargaining arrangements.

To Roy Adams' charge I plead guilty. His basis for being "thoroughly critical" is that I haven't spent as much time and attention on Canada as I have on situations in developing countries. Canada has a representative government, well developed judicial system, independent workers organizations, robust civil society, lively press, no armed conflict, and enjoys one of the world's highest standards of living. Does this mean that there are no problems? Of course not. But given the limited time and resources at my disposal, I think most people would agree that it makes sense to allocate more of both to places that are not so blessed.

Minimal respect for standards of truth and reasonableness may not be internationally recognized human rights. But shouldn't one be able to expect them from those who claim to speak—and so passionately at that—on behalf of those rights?